Amendment to the drawings:

Please amend Figures 4 and 7 as shown in the annotated marked-up drawings attached hereto in Exhibit A. Pursuant to 37 C.F.R. § 1.121(d), Applicant has included replacement sheets for Figures 4 and 7 in Exhibit A. No new matter has been added.

REMARKS

Claims 1-13 are currently pending with the entry of this Amendment.

Claims 1-13 stand rejected.

Objection to the Drawings

At paragraph 1 of the Office Action, the Examiner objected to Figures 4 and 7 as not including reference signs provided in the written description. Applicant has amended Figures 4 and 7 to correct the informalities identified by the Examiner. Reconsideration and withdrawal of the objections to Figures 4 and 7 are hereby respectfully solicited.

Objection to the Claims

At paragraph 2 of the Office Action, the Examiner objected to Claims 8 and 11 as providing an acronym not previously defined. Applicant has amended Claims 8 and 11 to correct the typographical errors identified by the Examiner. No new matter has been added. Reconsideration and withdrawal of the objections to Claims 8 and 11 are hereby respectfully solicited.

Rejection under 35 U.S.C. § 102(b)

On pages 3-4 the Examiner improperly rejected Claims 8-9 under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent Publication No. 2002/0150036 to Weerackody ("Weerackody"). Weerackody does not disclose each and every element of

Claims 8-9, and Applicant requests that the rejections based thereupon be reconsidered and withdrawn.

For example, Weerackody does not sequence the data, rather it selects a sequence (i.e., a phase sequence $\{\theta_{n,k}\}$) to represent a data sequence. *See* Paragraph [0012]. This is not data sequencing, it is merely data recoding as the data sequence from symbol to symbol is not changed, only the symbols are changed. This is further supported by the differential encoding algorithms provided by Weerackody in paragraphs [0014] through [0022] and Weerackody's statement that the selected data sequence ($\{\theta_{n,k}\}$) has been chosen and encoded to reduce the peak-to-average power ratio. *See* Paragraphs [0023]-[0024].

By analogy in Weerackody, a data sequence of "one, two, three" could be represented in English, Spanish, German or Japanese, etc. The sequencing of the language representing the data sequence may change but not the data sequence in Weerackody. For example, the data may be represented as "one, dos, drei" where the "one" is in English, the "two" in Spanish and the "three" in German. However, the sequence of data remains the same, one, two, three but with a periodicity of n and a period V. *See* paragraph [0023]. Therefore, it is clear that Weerackody does not teach sequencing the data as recited in Claim 8.

Without addressing the merits of the rejection, claim 9 is dependent upon independent claim 8. Claim 8 is in condition for allowance. Thus, without regard for the additional patentable limitations contained therein, reconsideration and withdrawal of the rejection of claim 9 are hereby solicited.

Rejection under 35 U.S.C. § 103(a)

On pages 5-11 the Examiner improperly rejected Claims 1-7 and 10-13 under 35 U.S.C. §103(a) as being allegedly unpatentable by Weerackody in view of U.S. Patent Publication No. 2004/0086054 to Corral ("Corral"). It appears that the rejection is premised upon a misunderstanding of the primary reference Weerackody. Thus, the cited references do not disclose, teach or suggest the elements of Claims 1-7 and 10-13, alone or combination, and Applicant requests that the rejections based thereupon be reconsidered and withdrawn.

In order for the Examiner to establish a *prima facie* case for obviousness, three (3) criteria must be met. First, there must be some suggestion or motivation, either in the cited prior art references or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as the Examiner proposes. Second, there must be a reasonable expectation of success in connection with the Examiner's proposed combination of the references. Third, the prior art references must disclose or suggest all of the claimed elements. *See* MPEP § 2143. The Examiner has failed to establish a

prima facie case for obviousness because the Examiner failed to satisfy his burden of showing that the prior art discloses or suggests all of the claimed elements of Claims 1-7 and 10-13, and, as such, failed to satisfy his burden of showing that there is a suggestion or motivation to one of ordinary skill in the art to modify the primary reference as the Examiner proposes.

First, the Examiner wrongly bases his rejection under 35 U.S.C. § 103(a) on Weerackody as the primary reference. Independent Claims 1, 3, 6 and 11 provide comparable sequencing elements as discussed above with regard to independent Claim 8. Incorporating the discussion above regarding Weerackody, it is clear that Weerackody does not disclose or teach data sequencing contrary to the assertions of the Examiner, but rather Weerackody merely selects a sequence and recodes the sequence. Corral, however, is equally unavailing and is merely directed to block encoding to reduce the peak-to-average power ratio. Thus, Corral fails to supplement the deficiencies of Weerackody and the Examiner has not asserted otherwise.

Thus, the Examiner has not met his burden under 35 U.S.C. § 103(a). Reconsideration and withdrawal of the rejection of independent Claims 1, 3, 6 and 11 are hereby respectfully solicited.

Without addressing the merits of the rejection, Claims 2, 4-5, 7, 10 and 12-13 are dependent upon independent Claims 1, 3, 6, 8 and 11, respectively. Claims 1, 3, 6, 8 and

11 are in condition for allowance. Thus, without regard for the additional patentable limitations contained therein, reconsideration and withdrawal of the rejection of Claims 2, 4-5, 7, 10 and 12-13 are hereby solicited

Conclusion

Applicant believes that the present application is in condition for allowance and, as such, it is earnestly requested that Claims 1-13 be allowed to issue in a U.S. Patent.

If the Examiner believes that an in-person or telephonic interview with the Applicant's representatives will expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned agents of record.

While an extension of time is not deemed necessary, the Office is requested and hereby authorized to charge the appropriate extension-of-time fees against **Deposit Account No. 04-1679** to Duane Morris LLP.

Respectfully submitted,

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EXHIBIT A

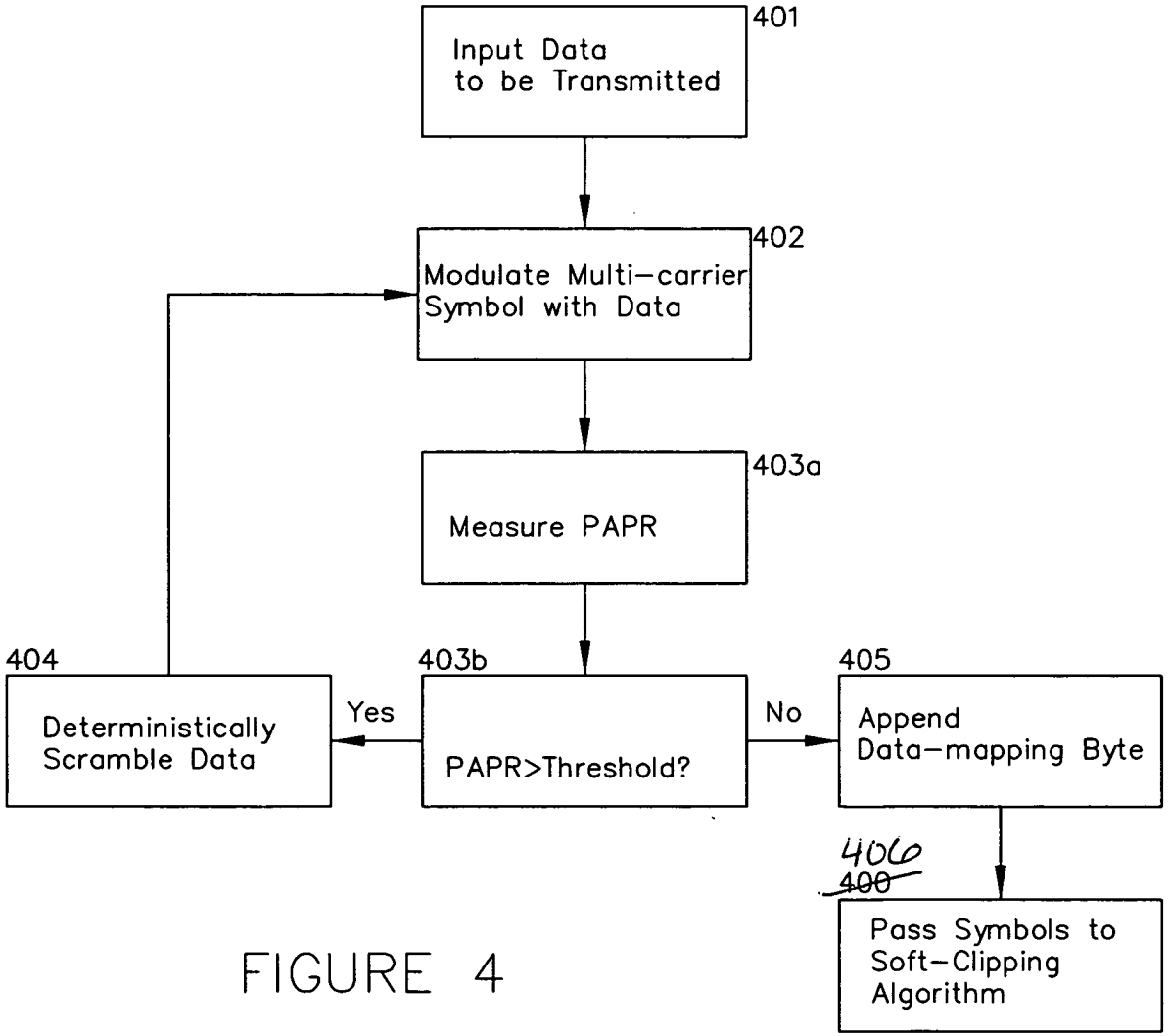

FIGURE 4

"Annotated Marked-up Drawing"

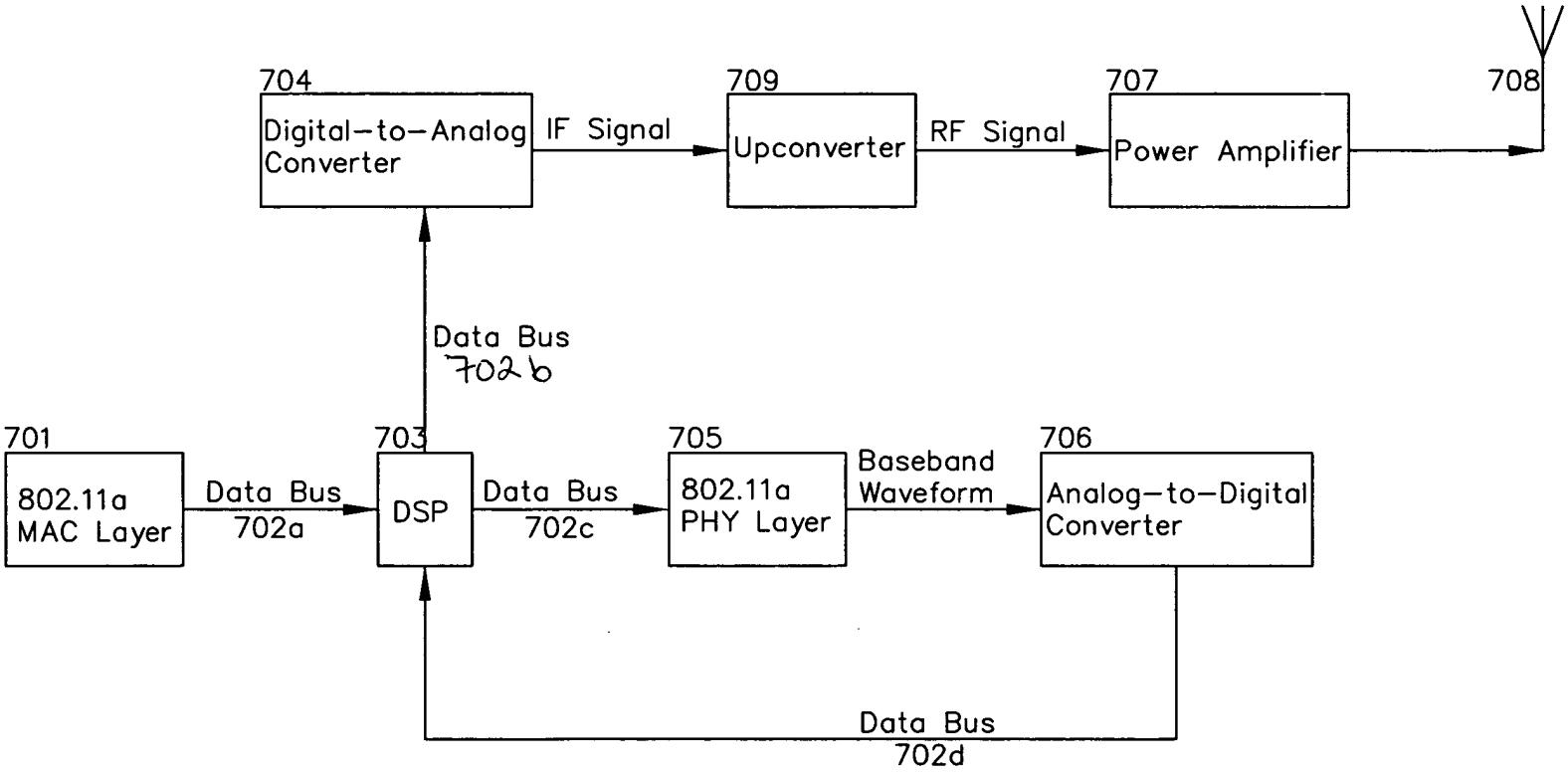

FIGURE 7

"Annotated Marked–up Drawing"